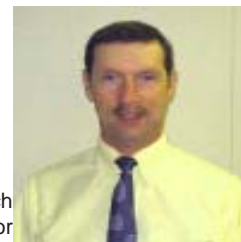


Regulatory Services

Dr. Chris Crnich
Director



The Division of Regulatory Services has regulatory oversight of products used by consumers of Utah agricultural products and services. Our staff prides itself in the uniform and sound practices of standardization of all their work to ensure a wholesome, clean and uniform service and product function throughout all the state. This report will outline each of the five programs within the division and the unique specialties each program brings to the oversight of Utah's products and services. In this new era of security, our division has lead the way in promoting extra awareness and observation of food facilities and plant operations that produce food products for Utah consumers. We are dedicated to provide helpful information and another set of eyes to be constantly vigilant in the safety of our food supplies.

This past year has seen a significant change in the way two of our programs are financed and has created a rededication of our staff to more customer oriented service. Legislative budget changes had reduced general fund appropriations to the Department for regulatory functions. The legislature in turn directed the initiation of a user fee in the food compliance and weights and measures programs within the Division of Regulatory Services. This past year a committee was formed that included representative from both programs involved with the new registration program, the information technology section, administrative division personnel, and the department public affairs officer. This team organized and directed the planning and implementation of a series of events to notify, educate, address questions, rule making, invoicing, verification of data, coordination of categories, question and answer sessions, final customer invoice production and distribution, and collection of fees for the new registration program. Sub-groups created the rule making process. Industry representatives were invited to assist in the process and were an absolute critical resource to the process of creating the rules to officiate in the functions of the registration process. Public hearings were provided and invaluable input from groups affected by the new registration program allowed for a fair and equitable appropriation of fees to the users. The registration process was completed with an almost complete reconciliation of all the establishments that are regulated by the Division of Regulatory Services. Compliments must be given to all the customers that so faithfully and diligently have provided input to the Division personnel that worked to complete the legislative registration directive and ultimately completed the registration process. With the resounding success of this program, the legislature has reviewed and reduced the amounts of the fees to each of the facilities and users of the new system for the upcoming calendar year.

The Division of Regulatory Services continues to support and assist the Department to become more aware of the security

of our food supplies from farm to fork. The area of homeland defense and food safety continues to be of top most concern to all of our staff members to assist all our customers to be alert to the great responsibility of production of a safe and wholesome product for our consuming public. We work internally with the homeland defense specialist within our Department to organize and prepare our staff for any contingency. Our readiness has improved and will continue to allow our staff to be prepared for any unusual incident that may affect areas that we regulate. This coordinated effort or readiness and training to identify and handle any emergency situation is a continual event of training and practice that will continue within our various programs for the safety and security of our customer base. The further training of each of our customers is a concern and priority for each of our inspection staff. With the assistance of many partners, we have distributed information and educational materials to many of our facilities to allow them to become more aware and physically secure to the potential sources of product contamination or compromise.

Our five programs are fully staffed and each inspector has developed a unique skill for their individual specialty. We have each committed to be public servants of the highest quality and service to meet the new governor's directives. Each program supervisor has improved practices and performance measures to meet the ever changing world in which we live. The individual program reports reflect great credit to each of the outstanding managers and inspection staff that work diligently to perform the regulatory functions assigned to them.

Food Protection Program Registration

2004 was the start of a brand new food establishment registration program. In 2003 the State Legislature passed house bill 283 legislating the Utah Department of Agriculture and Food (UDAF) access a registration fee to food establishments. Implementing the registration of food establishments has been a multifaceted program involving several divisions within UDAF. A system to handle the registration program was designed and built. A strategic plan was developed to ensure all aspects were carefully addressed.

Our first responsibility was to educate our customers about registration. Informational packets with brochures were created and sent out to all of our food establishments. A PowerPoint presentation was developed and presented to the Utah Food Industry. Many phone calls were received. The environmental health specialists hand delivered packets containing information for the registration program.

To address the specifics of the Act, a new Food Establishment Registration Rule was developed and implemented. UDAF worked

closely with industry to ensure the rule was clear and fair to industry. The Food Establishment Rule gives UDAF the authority to suspend or revoke a food establishment's registration based on a history of non-compliance or if an imminent health hazard exists.

Out of the food registration meetings an issue arose. The Utah food pantries distribute food to people that can not afford food. The food pantries have no operating budget in which to pay the proposed fees. At the hearing UDAF received comments from Utahns Against Hunger stating it was very difficult for these pantries to pay the fees. A decision was made to exempt these food distribution facilities from paying fees. Working with industry we crafted specific exemption language that exempted these types of establishments. Inspections are still conducted at these facilities to ensure food safety principles are being followed.

The implementation of this new complex program has been challenging. Challenges that have arisen have been met successfully.

Inspections 2004		
Establishment Type	Number	Inspections
Bakeries	404	697
Grain Processors	17	10
Grocery Stores ¹	219	1,679
Meat Departments	380	669
Food Processors	425	598
Warehouses	259	318
Water Facilities	24	39
TOTAL	2,728	4,017

Food Product Control

The Utah Wholesome Food Act has two main laws that are used to evaluate the safety and wholesomeness. First there is adulteration. A food is adulterated if it contains any poisonous substance, which may render it injurious to health, or if it has been produced or stored under conditions whereby it may become contaminated with filth, or rendered diseased, unwholesome, or injurious to health. Misbranding is the second. Misbranding is when food products are improperly labeled or is missing key information.

In order to protect the consumer, food that is suspected of being misbranded or adulterated is prevented from moving in commerce. This is achieved through Voluntary Destructions, Hold Orders and Releases. In 2004, twenty seven (27) hold orders were issued involving 74,014 pounds of food. Seventeen (17) hold order releases were issued releasing 81,266 pounds of food. Seventy five (75) voluntary destructions were issued which resulted in 61,694 pounds of food being voluntarily destroyed because it was suspected of being adulterated.

Warning Notices

When voluntary compliance cannot be achieved, we take additional regulatory action in the form of Warning Notices and Administrative Action. In 2004, UDAF sent out 59 Warning Notices concerning non-compliance with the Utah Wholesome Food Act (WFA) and the Utah Food Protection Rule (FPR). Seventeen Cease & Desist orders were issued to protect the public from food processed in an unsanitary manner.

Citations

Thirteen citations were issued in 2004. Nine were issued to supermarkets, one to a warehouse, and three to food manufacturers. Citations continue to be an effective enforcement tool. We live in a global economy and the way food is grown, processed, and handled around the world can directly impact the citizens of Utah. The Utah Department of Agriculture and Food comprehensive food safety program focuses on the risk factors that lead to food borne illness. Strategies are consistently being implemented to ensure Utah's food supply is safe.

Egg & Poultry Grading

The Egg and Poultry Grading program provides a needed service to the egg and poultry industry and the consumers of Utah. Grading provides a standardized means of describing the marketability of a particular product. Through the application of uniform grade standards, both eggs and poultry can be classified according to a range of quality characteristics. Buyers, sellers and consumers alike can communicate about these characteristics through a common language. The use of the official USDA grade shield certifies that both eggs and poultry have been graded under the continuous inspection of grading personal. USDA's grading services are voluntary. Egg packers and poultry processors who request this service pay for the services involved.

Program activities include:

Shell Egg Grading, Egg Products Inspection, Shell Egg Surveillance, and Poultry Grading.

Shell Egg Grading

During the 1970's and 80's, great improvements were made in the processing and merchandising of shell eggs. More efficient processing machines were developed. With the introduction of the polystyrene foam egg carton, by Jon M. Huntsman, eggs were being merchandised better. Today eggs are processed on large computerized machines, and packaged in a variety of different types and sizes of containers. Even with all of these improvements, USDA grading is still an important marketing tool. It allows the Utah egg industry to market eggs all over the world.

During 2004, USDA licensed egg graders graded 891,800 Cases (30 Dozen per Case). This is a slight decrease from last years record high of 895,566 Cases (30 Dozen Per Case).

Egg Products Inspection

In 1970, Congress passed the Egg Products Inspection Act. This made it mandatory that liquid, frozen and dried egg products be pasteurized and processed under continuous inspection. Utah Egg and Poultry staff members provide this inspection in Utah with a cooperative agreement with FSIS.

The term "egg products" refers to eggs that are removed from their shells for processing. The further processing of eggs adds greater product stability, longer shelf life, ease in preparation and storage, as well as product safety. With the American trend towards the consumption of prepared foods and fast foods, the increased demand for further processed eggs is sure to continue.



During the year 2004, 243,866 (30 dozen per case) cases of shell eggs were processed into liquid or frozen egg products in Utah. This is an increase of about 4% over the previous year.

Shell Egg Surveillance

The USDA has established standards of quality for all eggs that are sold to the consumer. There are mandatory requirements for the handling of certain qualities of eggs that do not meet these standards. All egg producers with over 3,000 layers, firms grading and packing eggs from production sources other than their own, and hatcheries are required to be registered with the USDA. These

firms are visited quarterly to verify that shell eggs packed for the consumer are in compliance. Eighteen of these mandatory inspections were conducted by State of Utah graders during 2004.



Poultry Grading

Utah is home to Moroni Feed Co., one of the few fully integrated turkey producing and marketing cooperatives in the United States.

The Sanpete Valley turkey growers produce and process turkey and turkey products that are distributed to consumers around the globe.

The USDA licensed Poultry graders of Utah graded 69,370,505 lbs. of turkey and turkey products in the year 2004. This is a decrease over last years 88,779,895 lbs.

Nationally turkey production was down 4% it is estimated that next years production could be down an additional 2%.

Dairy Compliance Program

The Utah Dairy Act prohibits the sale of raw milk in Utah, except in especially permitted and inspected dairies and then only on the premise where the raw milk is produced and bottled.

In the 2005 National Conference on Interstate Milk Shipments (NCIMS), a resolution was passed strengthening the position of the Food and Drug Administration (FDA) and the individual States against the sale of raw milk: "The NCIMS, due to the serious public health concerns, discourages the consumption of raw milk and encourages states to pass laws or adopt administrative rules that prohibit the sale of raw milk to household consumers and to the unlawful manufactures of unlawful dairy products."

During 2004, there was a surge of interest in Utah in the sale and consumption of raw milk, to the point that a permitted raw milk dairy in Utah wishes to petition the State Legislature to change certain points of the Utah Dairy Act, so that wholesale distribution of raw milk would become legal in Utah.

Statistics

The trend among dairy farms in the year 2003 was the same as 2002, which was, a decrease in dairy farm numbers, as dairy farms went out of business, and an increase in dairy herd size, as

the remaining farms grew larger. But at the same time, last year's total milk cow numbers decreased compared to the year before.

Item	Numbers
Total dairy farms in Utah	347 dairies
Total milk cows in Utah	88,000 cows
Total milk production in Utah	1.609 billion lbs
Production per cow in Utah	18,284 lbs/cow
Herd average of dairy farms in Utah	244 cows
Herd average of the Western United States	486 cows
Herd average of the rest of the U.S.	135 cows

Meat Compliance Program

The Meat Compliance Program goal is to control and limit the movement in commerce, of adulterated or misbranded meats. An additional goal is to provide accurate information concerning complex meat laws.

As Utah's culture and population becomes more diverse, the need to adapt current laws and rules to accommodate their customs, traditions and differing tastes become critical. The Utah Department of Agriculture and Food's Meat compliance program is currently working with the Islamic community to maintain, enhance and dignify their celebration of EID AL – ADHA. The most important of all Islamic religious holiday. This celebrates the account of Abraham's near-sacrifice of his son Isaac on Mount Moriah. Following this tradition, the head of each household hopes to sacrifice a sheep on the morning of the first day of the holiday period. A lavish meal is made from meat, friends and family are invited to feast, and the excess meat and the hide are donated to charity.

Currently few options's exists within the city to practice this tradition. The demand however has resulted in several farms purchasing large quantities of sheep and goats prior to the holiday. As the holiday nears they sell the animals at a greatly inflated cost and allow the slaughter of the animals on their property. The result is a costly, cold and unsanitary environment, which falls outside the current laws, put many at risk and lessens this important holiday.

Working closely with the Islamic community leaders we are exploring options to use existing facilities with proper surfaces, drains, offal handling capabilities, and sanitation on a annual basis to enhance this holiday. In addition we are working toward an education program on how EID AI – ADHA can be properly observed. We appreciate help and support from our partners within the Islamic community.

In the interim we are aggressively documenting and prosecuting those who are operating illegal slaughter facilities and taking advantage of this group.

The concern with emerging pathogens and trans-zootiology diseases we have developed a policy on the donation of Game Meat. Even though game meat may provide a source of protein for those served by volunteer organizations it's use is now discouraged. You can read the policy at our website <http://www.ag.utah.gov>.



During the calendar year 2004 the Meat Compliance Program conducted 1,787 random reviews of state businesses and 73 planned compliance reviews of previous violators of meat laws. Compliance investigations resulted in 30 letters of warning being issued, some including administrative citations. Compliance officers monitored the shipment of 8 truck wreck, making sure the meat was properly handled. Compliance officers collected more than 400 ground beef samples. The State Chemist tested the samples for fat, sulfites, and added water the results showed a high degree of compliance.

Bedding, Upholstered Furniture & Quilted Clothing

The purpose of the Bedding, Upholstered Furniture, Quilted Clothing Program is to protect consumers against fraud and product misrepresentation, to assure Utahns hygienically clean products and to provide allergy awareness before purchase of these articles. Utah law requires manufacturers, supply dealers, wholesalers, and repairers of these products and their components to obtain an annual license before offering items for sale within the state.

Product labels are required to indicate whether the product is made from new or used filling materials and to disclose fillings by generic name and percentage. This enables consumers to make price/value/performance-based buying decisions. It also encourages fair competition among manufacturers by establishing uniformity in labeling and component disclosure.

Annual license fees make the program self-sustaining and allow laboratory-testing of suspect products to determine whether their contents are accurately labeled and free from filth and other contaminants. Manufacturing sites are inspected for cleanliness and truthful labeling.

As more products are produced outside the United States, regulation and inspection helps maintain a level playing field for US manufacturers. Working with other state and federal government agencies, Utah helps improve product oversight and helps prevent contamination of US food and fiber sources by preventing importation of prohibited plant and animal products.

Additional program information and many helpful links are available on our website to assist manufacturers with the licensing process. Application forms (printable in Adobe Acrobat), and other program materials are available at the following URL:

<http://ag.utah.gov/regsvcs/bedding.html>

Food Labeling

The State of Utah reviews food labels for compliance with state and federal laws and rules/regulations. Label reviews help new producers avoid costly reprinting of incorrect labels and help assure that consumers get complete and accurate information in a uniform format on food labels.

Each year about 29,000 Americans are hospitalized and about 150 die from allergic reactions to food. The Food Allergen Labeling and Consumer Protection Act (FALCPA) passed by the national government takes effect January 1, 2006. The bill will ensure that ingredient statements provide clear information about the presence of peanuts, soybeans, milk, eggs, fish, shellfish, tree nuts, and wheat in foods. These ingredients are responsible for more than 90% of all food allergies.

Manufacturers can reveal the presence of a major allergen one of three ways:

1) When the ingredient itself is present in the food, they must list it by its common name in the ingredient statement, i.e. "Milk".

2) At the end of the ingredient list, they may print an allergen warning: "Contains Milk, Eggs, and Wheat" for example.

3) Use a parenthetical statement to clarify technical ingredient terms. For example: CASEIN (MILK), or ALBUMIN (EGGS).

The CFR provides that spices, flavors, and certain colors used in foods may be declared collectively without naming each one individually. However, in some instances, these ingredients contain sub-components that are allergens. Evidence indicates that some food allergens can cause serious reactions even when present in very small amounts. Therefore, the presence of an allergen, even as a sub-component of another ingredient, must be listed in the ingredient statement.

By January 1, 2006, manufacturers must also have amended the nutrition facts portion of their labels to disclose the amount of trans fatty acids in foods. Many manufacturers have been redesigning products to eliminate or reduce the quantity of trans fat in the foods they produce. FDA still has not set a "Daily Value" for trans fat intake or defined it to allow such statements as "low in trans fat" or "trans fat free". However, they are urging consumers to keep their consumption of trans fat as low as possible.

FDA estimates that by January 2009, trans fat labeling will have prevented from 600 to 1,200 cases of coronary heart disease and from 250 to 500 deaths each year.

Correct and complete food labels help to protect consumers and contribute to a safe and healthful food source for all of us. However, consumers are still ultimately responsible to read and understand the label and make choices based on their personal needs.

Weights & Measures

The Weights and Measures Program involves all weights and measures of every kind and any instrument or device used in weighing or measuring application. The purpose of the program is to ensure that equity prevails in the market place and that commodities bought or sold are accurately weighed or measured and properly identified. Unannounced inspections are routinely conducted. Weights and Measures also respond to consumer complaints. These activities are enforced through the Utah Weights & Measures Act and five administrative rules.

In the year 2004, the Utah State Legislature passed House Bill 283 that mandated the payment of fees by businesses in Utah for registration of weighing and measuring devices inspected to ensure equity in the marketplace.

Also, in the year 2004, emphasis was given to consumer protection in the area of price verification, package inspection, liquefied petroleum meters, scale inspections, gasoline pumps and petroleum and water meters.

The Weights & Measures Program operates in the following areas:

General Inspections

Scales are inspected to insure that they are accurate for the services in which they are used, installed properly, and positioned so that customers can see the display.

Weights and Measures inspectors pump fuel into a certified test measure to check for the accuracy of the amount of product delivered by the dispenser. Scanner Inspections may be conducted in any type of store. Scanner pricing errors adversely affect retailers and consumers. Retailers lose profits on undercharges and consumers lose money on overcharges. Price Verification inspections ensure that consumers are charged the advertised price for the items they purchase.

Weights and Measures officials check packaged products to be sure they contain the quantity stated on the label. Inspectors take random samples of packages in stores and count the items in the packages. Officials weigh or measure the contents to see if the labeled quantity is accurate.

Our inspectors checked 6,330 small capacity scales (0 – 999lbs.) and 15,100 gasoline pumps. Every type of item is subject to either a scanning inspection, package checking, or label review. In 2004, there were 110 package check inspections. Package inspections verify the net quantity statement. In 2004, 564 scanner inspections were conducted verifying prices at the checkout stands.

Large Capacity Scales

Large-scale capacities include 1,000 lbs. and up. These devices may include scales used for weighing livestock, coal, gravel, vehicles, etc., within inspections conducted at auction yards, ranches, ports of entry, mine sites, construction sites, gravel pits and railroad yards, etc. A total of 1,080 large capacity scale inspections were conducted in 2004.

Liquefied Petroleum Gas Meters

Our weights and measures LPG inspector provides inspections to all Utah Vendors dispensing LPG either through dispensers or delivery trucks. In 2004, there were 326 propane meters inspected throughout the state. These inspections included checking appropriate installation and calibration of propane dispensers and meters.

Large Capacity Petroleum & Water Meters

Inspections are conducted on airport fuel trucks, fuel delivery trucks, cement batch plant water meters and other large meters. There were 514 inspections conducted in 2004.

Metrology Laboratory

The Metrology Laboratory is operated and maintained by one person. The state maintains standards of mass, length, and volume. In the year 2004, 641 artifacts from industry and 125 artifacts from the Utah Weights and Measures Program were tested for a calibration certificate. These include calibration services in mass, length, and volume, using standards that are traceable to the National Institute of Standards and Technology.

Consumers rely on the services of this facility to certify equipment used for weight, length or volumetric measurement in commercial business.

Motor Fuel Laboratory

The Motor Fuel Laboratory maintains a high standard of testing for motor fuel quality. For the year 2004, 63 complaint cases required investigation and validation of claims. Of the 58 cases, 42 were determined to be valid requiring further investigation. 12 of the cases that were investigated resulted in helping consumers recoup monetary losses of approximately \$8,000. This money was recovered from insurances. The compensation was for repairs performed on vehicles with fuel related damage that had been properly and accurately diagnosed by professional mechanics. After the diagnosis by the professional mechanics, Utah Motor Fuel Testing Laboratory also verified the validity of the claims.

As population and industry growth continues, so does the need to provide weights and measures inspection services.



The purpose of the Weights and Measures Program is to ensure that equity prevails in the market place and that commodities bought or sold are accurately weighed or measured and properly identified.